

REMARKS

Favorable consideration of this Application as presently amended and in light of the following discussion is respectfully requested. It is noted that the applicant previously filed a Second Preliminary amendment on October 6, 2006. It appears that the Examiner did not act on this amendment.

After entry of the foregoing Amendment, Claims 6-8 are pending in the present Application. Claims 1-5 and 9 have been canceled without prejudice or disclaimer. Claim 6 and has been amended. Support for the amendment of Claim 6 can be found in Figure 1, route no. 3 and in the specification at page 4 starting at line 1. No new matter has been added.

By way of summary, the Official Action presents the following: Claim 9 stands rejected under 35 U.S.C. § 112, second paragraph as allegedly having insufficient antecedent basis; Claim 6 stands rejected under 35 U.S.C. § 112, second paragraph allegedly failing to particularly point out and distinctly claim the subject matter applicant regards as pertinent to the invention; Claims 6, 7, and 9 stand rejected under 35 U.S.C. § 103 as being unpatentable over Deeter,¹ and, The applicant respectfully traverses these rejections.

Claim 8 stands objected to allegedly being dependent upon a rejected base claim. The applicant appreciates that the Examiner has acknowledged that claim 8 is allowable over the prior art.

The applicant affirms the election of Group II, claims 6-9 without traverse.

REJECTION UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

The outstanding Official Action has rejected Claim 9 under 35 U.S.C. § 112, second paragraph as allegedly having insufficient antecedent basis. Claim 9 has been cancelled.

The outstanding Official Action has rejected Claim 6 under 35 U.S.C. § 112, second paragraph allegedly failing to particularly point out and distinctly claim the subject matter

¹ Deeter, J. et al., "Asymmetri Synthesis and Absolute Stereochemistry of LY248686," Tetrahedron Letters, 31 (49), 1990, pp. 7101-7104.

applicant regards as pertinent to the invention. It is noted that in the second preliminary amendment the applicant cancelled the trademark matter from claim 6. For the above reasons, this rejection should be withdrawn.

REJECTION UNDER 35 U.S.C. § 103

The outstanding Official Action has rejected Claims 6, 7, and 9 under 35 U.S.C. § 103 as being unpatentable over Deeter. Deeter is cited at page 1, line 18 of the applicant's specification. The applicant is claiming a process for preparing (+)-(S)-N-methyl-3-(1-naphthyloxy)-3-(2-thienyl)propylamine oxalate. The Examiner asserted that Deeter and the claimed invention differed in that Deeter inventions are directed to reduction and subsequent reaction of tertiary amine compounds rather than the secondary amine compounds as claimed by the applicant. In addition, the applicant's claimed process requires reacting thiophene with 3-Chloropropionic acid chloride and subsequent reaction with methylamine. The applicant does not believe that Deeter teaches this feature. For the above reasons, this rejection should be withdrawn.

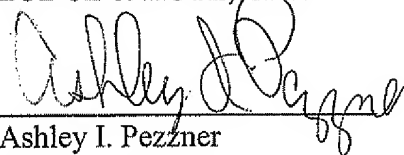
CONCLUSION

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present Application, including Claims 6-8, is patently distinguished over the prior art, in condition for allowance, and such action is respectfully requested at an early date.

The fee for a two month extension of time has been paid. The Commissioner is hereby authorized to charge any additional fees to our Deposit Account No. 03-2775, under Order No. 12810-00113-US from which the undersigned is authorized to draw.

Respectfully submitted,

CONNOLLY, BOVE,
LODGE & HUTZ, L.L.P.



Ashley I. Pezzner
Registration No. 35,646
Attorney of Record

CUSTOMER NUMBER

23416

Phone: 302-658-9141

Fax: 302-255-4270

AIP/rcc